

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ARIZONA**

Jose Luis Pita-Mota,

Petitioner,

v.

USA,

Respondent.

No. CV-13-02141-PHX-GMS

No. CR-09-1114-PHX-GMS

**ORDER**

Pending before the Court are Petitioner's Motion to Vacate, Set Aside or Correct Sentence by a Person in Federal Custody and United States Magistrate Judge Michelle H. Burns' Report and Recommendation ("R&R"). Docs. 1, 6. The R&R recommends that the Court deny the Motion and dismiss with prejudice. Doc. 6 at 6. The Magistrate Judge advised the parties that they had fourteen days to file objections to the R&R and that failure to file timely objections could be considered a waiver of the right to obtain review of the R&R. *Id.* at 6 (citing Fed. R. Civ. P. 72(b); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003)).

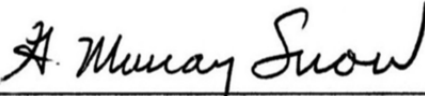
The parties did not file objections, which relieves the Court of its obligation to review the R&R. *See Reyna-Tapia*, 328 F.3d at 1121; *Thomas v. Arn*, 474 U.S. 140, 149 (1985) ("[Section 636(b)(1)] does not . . . require any review at all . . . of any issue that is not the subject of an objection."); Fed. R. Civ. P. 72(b)(3) ("The district judge must determine de novo any part of the magistrate judge's disposition that has been properly objected to."). The Court has nonetheless reviewed the R&R and finds that it is well-

1 taken. The Court will accept the R&R and deny the Motion and dismiss with prejudice.  
2 *See* 28 U.S.C. § 636(b)(1) (stating that the district court “may accept, reject, or modify, in  
3 whole or in part, the findings or recommendations made by the magistrate”); Fed. R. Civ.  
4 P. 72(b)(3) (“The district judge may accept, reject, or modify the recommended  
5 disposition; receive further evidence; or return the matter to the magistrate judge with  
6 instructions.”).

7 **IT IS ORDERED:**

- 8 1. Magistrate Judge Burns’ R&R (Doc. 6) is **accepted**.
- 9 2. Petitioner’s Motion to Vacate, Set Aside or Correct Sentence (Doc. 1) is  
10 **denied and dismissed with prejudice**.
- 11 3. The Clerk of Court shall **terminate** this action.
- 12 4. Pursuant to Rule 11(a) of the Rules Governing Section 2255 Cases, in the  
13 event Petitioner files an appeal, the Court declines to issue a certificate of appealability  
14 because reasonable jurists would not find the Court’s procedural ruling debatable. *See*  
15 *Slack v. McDaniel*, 529 U.S. 473, 484 (2000).

16 Dated this 5th day of December, 2014.

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20 G. Murray Snow  
21 United States District Judge  
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